

The House Committee on Governmental Affairs offers the following substitute to HB 72:

A BILL TO BE ENTITLED  
AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to repeal the provisions of law providing for county surveyors; to amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to delete numerous references to county surveyors; to provide for the continuation in office of county surveyors who were elected to office until the end of their current terms of office; to provide for the abolishing of the offices of appointed county surveyors; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by repealing and reserving Chapter 7, relating to county surveyors, in its entirety.

**SECTION 2.**

Said title is further amended by revising subsection (b) of Code Section 36-3-26, relating to compensation of land surveyor, notification of county authorities of fee, and advisory committee, as follows:

"(b) For the purpose of assisting the Secretary of State in connection with his or her responsibilities and duties to fix and negotiate an appropriate fee for the services of the land surveyor in surveying, marking out, and defining the boundary line in dispute, the Secretary of State may appoint an advisory committee to be composed of three registered land surveyors. One of the members of the advisory committee shall be a ~~county~~ registered land surveyor who shall be selected by the Secretary of State from a list of at least three ~~county registered land~~ surveyors submitted to the Secretary of State by the Association County Commissioners of Georgia. The members of the advisory committee shall serve at the pleasure of the Secretary of State or for such terms as the Secretary of State shall

25 provide. The members of the advisory committee shall receive no compensation for their  
26 services as such."

27 **SECTION 3.**

28 Chapter 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
29 revising subsection (b) of Code Section 44-1-15, relating to removal of survey monuments  
30 prohibited, exceptions, and penalties, as follows:

31 "(b) It shall be unlawful for any person willfully and knowingly to remove, destroy, injure,  
32 or displace any geodetic control monument or property corner monument except under the  
33 authority of the agency which originally set the monument or, in the case of a property  
34 corner monument, under the authority of a registered land surveyor ~~or duly elected or~~  
35 ~~appointed county surveyor~~ having the written permission of all landowners who are parties  
36 to said property corner monument. In the case of a geodetic control monument, the record  
37 of any authorized change shall be published; and, in the case of a property corner  
38 monument, the record of any authorized change shall be filed for record in the office of the  
39 clerk of the superior court of the county in which the monument is located."

40 **SECTION 4.**

41 Said title is further amended by revising Code Section 44-4-2, relating to application for new  
42 survey and marking of lines and notice to owners of adjoining lands, as follows:

43 "44-4-2.

44 Every owner of land, any portion of which lies in any militia district even if the remainder  
45 lies in an adjoining district or an adjoining county, who desires the lines around his or her  
46 entire tract to be resurveyed and re-marked shall apply to the processioners of the district  
47 to appoint a day when a majority of them, along with ~~the county~~ a registered land surveyor,  
48 will trace and mark the lines. Ten days' written notice of the time of the running and  
49 marking shall be given to all the owners of adjoining lands if they are residents of this state;  
50 and the processioners shall not proceed to run and mark the lines until satisfactory evidence  
51 of the service of the notice is presented to them."

52 **SECTION 5.**

53 Said title is further amended by revising Code Section 44-4-3, relating to duty of surveyor  
54 and processioners, preparation and certification of plat, delivery of copy to applicant,  
55 evidentiary effect of plat, and admissibility, as follows:

56 "44-4-3.

57 It shall be the duty of the ~~county surveyor and the~~ processioners to take all due precautions  
58 to arrive at the true lines and to trace out and plainly mark the same. The ~~surveyor~~

processioners shall make out and certify a plat of the true lines and deliver a copy thereof to the applicant; and, in all future boundary disputes with any owner of adjoining lands who had due notice of the proccessioning, the certified plat and the lines so marked shall be prima facie correct; and the certified plat shall be admissible in evidence without further proof."

#### SECTION 6.

Said title is further amended by revising subsection (d) of Code Section 44-13-4, relating to application for examinations, to whom made, contents, schedule of property and list of creditors, effect of failure to comply, and survey, as follows:

"(d) The applicant shall apply to the judge of the probate court for an order to ~~the county surveyor or, if there is none, to some other~~ for a surveyor to lay off any real property of the applicant and to make a plat of the same, which order the judge shall issue at once and give to the applicant."

#### SECTION 7.

Said title is further amended by revising Code Section 44-13-5, relating to survey of lands in different county, as follows:

"44-13-5.

Whenever the applicant does not possess a sufficient amount of realty located in the county of ~~his~~ such applicant's residence, he or she may include in his or her application tracts of land located in counties other than that of ~~his~~ such applicant's residence. In such case, the judge of the probate court before whom the application is made shall cause the survey, valuation, and plat of the lands lying in counties other than the residence of the applicant to be made by ~~the county~~ a registered land surveyor of the county where the lands are located."

#### SECTION 8.

Said title is further amended by revising Code Section 44-13-10, relating to survey of exempted real property, affidavit of surveyor, return to probate court, objection to survey, and failure of surveyor to comply as contempt, as follows:

"44-13-10.

(a) The surveyor to whom the applicant delivers the order pursuant to subsection (d) of Code Section 44-13-4 shall lay off the exempted real property on or out of the land claimed by the applicant and make a plat of the same and shall make an affidavit that the exempted real property is correctly platted and laid off and setting out its value. ~~He~~ Such surveyor

shall return the affidavit to the judge of the probate court at least five days before the day appointed in the order for passing upon the application.

(b) It shall be a valid ground of objection to the propriety of any survey that it has been so made as to injure unjustly or needlessly the value of any land left unexempted by a disregard of the shape and location of the entire tract.

~~(c) Should any county surveyor fail to comply with his duty as prescribed by this Code section, he shall be punished for a contempt of court by the judge of the probate court."~~

#### SECTION 9.

Said title is further amended by revising Code Section 44-13-102, relating to survey and plat of exempted land, return to probate court, and recordation, as follows:

"44-13-102.

Upon an application by a debtor, ~~it shall be the duty of the county surveyor or any other surveyor if there shall be no county~~ the judge of the probate court shall commission a registered land surveyor to lay off the land allowed to the debtor's family under this article and make a plat of the same, which plat shall be returned to the judge of the probate court within 15 days after the application is made to the surveyor by the debtor, and recorded as provided for in Code Section 44-13-101."

#### SECTION 10.

Each elected county surveyor who is in office on June 30, 2009, shall serve out the term of office to which he or she was elected and shall have the powers and fulfill the duties and responsibilities of the office as it existed immediately prior to July 1, 2009, provided that, upon the conclusion of such person's term of office, no further elections to fill such office shall be held and such office shall be abolished. The office of each appointed county surveyor who is in office on June 30, 2009, shall be abolished on July 1, 2009.

#### SECTION 11.

This Act shall become effective on July 1, 2009.

#### SECTION 12.

All laws and parts of laws in conflict with this Act are repealed.